

*What Every Member of the
Trade Community Should Know About:*

Marking Requirements for Wearing Apparel



AN INFORMED COMPLIANCE PUBLICATION

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U.S. CUSTOMS and BORDER PROTECTION

NOTICE:

This publication is intended to provide guidance and information to the trade community. It reflects the position on or interpretation of the applicable laws or regulations by U.S. Customs and Border Protection (CBP) as of the date of publication, which is shown on the front cover. It does not in any way replace or supersede those laws or regulations. Only the latest official version of the laws or regulations is authoritative.

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PREFACE

On December 8, 1993, Title VI of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), also known as the Customs Modernization or “Mod” Act, became effective. These provisions amended many sections of the Tariff Act of 1930 and related laws.

Two new concepts that emerge from the Mod Act are “***informed compliance***” and “***shared responsibility***,” which are premised on the idea that in order to maximize voluntary compliance with laws and regulations of U.S. Customs and Border Protection, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the Mod Act imposes a greater obligation on CBP to provide the public with improved information concerning the trade community’s rights and responsibilities under customs regulations and related laws. In addition, both the trade and U.S. Customs and Border Protection share responsibility for carrying out these requirements. For example, under Section 484 of the Tariff Act, as amended (19 U.S.C. 1484), the importer of record is responsible for using reasonable care to enter, classify and determine the value of imported merchandise and to provide any other information necessary to enable U.S. Customs and Border Protection to properly assess duties, collect accurate statistics, and determine whether other applicable legal requirements, if any, have been met. CBP is then responsible for fixing the final classification and value of the merchandise. An importer of record’s failure to exercise reasonable care could delay release of the merchandise and, in some cases, could result in the imposition of penalties.

The Office of Regulations and Rulings (ORR) has been given a major role in meeting the informed compliance responsibilities of U.S. Customs and Border Protection. In order to provide information to the public, CBP has issued a series of informed compliance publications, and videos, on new or revised requirements, regulations or procedures, and a variety of classification and valuation issues.

This publication, prepared by the National Commodity Specialist Division, ORR, is a study of the marking requirements for wearing apparel. “Marking Requirements for Wearing Apparel” provides guidance regarding marking requirements of imported merchandise. We sincerely hope that this material, together with seminars and increased access to rulings of U.S. Customs and Border Protection, will help the trade community to improve voluntary compliance with customs laws and to understand the relevant administrative processes.

The material in this publication is provided for general information purposes only. Because many complicated factors can be involved in customs issues, an importer may wish to obtain a ruling under Regulations of U.S. Customs and Border Protection, 19 C.F.R. Part 177, or to obtain advice from an expert who specializes in customs matters, for example, a licensed customs broker, attorney or consultant.

Comments and suggestions are welcomed and should be addressed to the Assistant Commissioner at the Office of Regulations and Rulings, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, (Mint Annex), NW, Washington, D.C. 20229.

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Office of Regulations and Rulings

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COUNTRY OF ORIGIN MARKING FOR APPAREL	7
Country of Origin Marking: General Requirements	7
Determining Country of Origin for Wearing Apparel	7
Marking Requirements for Wearing Apparel	7
Special Marking Rulings	8
Marking When Name of Country or Locality Other Than Country of Origin Appears ...	9
TEXTILE FIBER IDENTIFICATION ACT AND WOOL PRODUCTS	
LABELING ACT	10
ADDITIONAL INFORMATION.....	12
The Internet.....	12
Customs Regulations	12
Customs Bulletin	12
Importing Into the United States	13
Informed Compliance Publications	13
Value Publications.....	14
“Your Comments are Important”	15

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COUNTRY OF ORIGIN MARKING FOR APPAREL

Country of Origin Marking: General Requirements

Section 304 of the Tariff Act of 1930, as amended (19 U.S.C. 1304), provides that, unless excepted, every article of foreign origin imported into the U.S. shall be marked in a conspicuous place as legibly, indelibly, and permanently as the nature of the article (or container) will permit, in such a manner as to indicate to the ultimate purchaser in the U.S. the English name of the country of origin of the article. Congressional intent in enacting 19 U.S.C. 1304 was “that the ultimate purchaser should be able to know by an inspection of the marking on the imported goods the country of which the good is the product. The evident purpose is to mark the good so that at the time of purchase the ultimate purchaser may, by knowing where the goods were produced, be able to buy or refuse to buy them, if such marking should influence his will.” *United States v. Friedlaender & Co.*, 27 C.C.P.A. 297 at 302 (1940).

Part 134, Customs Regulations (19 CFR Part 134), implements the country of origin marking requirements and exceptions of 19 U.S.C. 1304. Section 134.41(b), Customs Regulations (19 CFR 134.41(b)), mandates that the ultimate purchaser in the U.S. must be able to find the marking easily and read it without strain.

Determining Country of Origin for Wearing Apparel

United States Customs laws require that all wearing apparel articles produced abroad be marked for country of origin. The specific rules for determining origin can be found in Section 102, Customs Regulations (19 CFR 102). Guidance on country of origin determination for wearing apparel can be found in the Informed Compliance Publication “*What Every Member of the Trade Community Should Know About: Textile & Apparel Rules of Origin*” available on Customs' Home Page on the Internet's World Wide Web (www.customs.gov).

Marking Requirements for Wearing Apparel

All wearing apparel items must be marked with the name of the country of origin by means of a fabric label unless a precedent exists which has ruled in favor of another form of marking. Following are the general rules for locating such a fabric label on upper and lower body garments.

In the case of garments that cover the upper torso such as shirts, blouses, coats, sweaters, dresses and similar apparel, country of origin marking must be placed on the “inside center of the neck midway between the shoulder seams or in that immediate area” as ruled by Customs in T.D. 54640 (6).

“Trousers, slacks, jeans and similar wearing apparel must be marked by means of a permanent label affixed in a conspicuous location on the garment, such as the inside of

the waistband” as ruled by Customs in T.D. 71-264(3). This principle would apply as well to shorts, skirts and similar garments.

Special Marking Rulings

Reversible garments fall within the exception to the aforementioned neck marking requirements. A reversible front to back ladies tank top was found to be properly marked by means of permanent sewn-in label on the inside lower side seam and a hang tag securely attached at the neck in HQ 733890 dated December 31, 1990. And, in HQ 734692 dated October 31, 1992 it was ruled that a reversible jacket could be marked with a sewn-in label at the inside pocket in combination with a hang tag attached to the front zipper closure.

Men’s or ladies’ two or three piece suits may be marked in the jacket of the suit if bought and sold as a unit when all pieces are made in the same country as ruled in ORR Ruling 331-69 dated August 19, 1969.

Men’s dress shirts packaged in transparent poly bags should be marked at the neck so the ultimate purchaser can easily read the label without opening the packaging. See HQ 732374 dated July 7, 1989.

Garment and belt made in the same country and imported and sold together as a unit - the garment only may be marked, if found to reasonably indicate to the ultimate purchaser the country of origin of the belt as well. See HQ 734222 dated December 9, 1991 and ORR Ruling 331-69 dated August 19, 1969.

In several rulings, Customs has held that bulk packages of work gloves (usually 1 dz. pairs to a polybag), which are given to employees, may be excepted from individual marking provided that the gloves reach the "ultimate purchaser" (normally an industrial plant) in outside containers (poly bags) properly marked with the origin of the gloves and the Customs Port Director is satisfied that the gloves will be used only in the manner described. Gloves that are not contained in a poly bag but are fastened only by a paper band which may easily become detached or ripped from the gloves, may not be excepted from individual marking, as ruled in HQ 734681, dated October 16, 1992. However, Customs has held that cloth work or garden gloves may be marked to indicate the country of origin by means of a heavy paper folder which securely fastens the gloves together, as long as the country of origin is shown in a legible and conspicuous manner. See Treasury Decision (T.D.) 75-222, dated September 4, 1975. Gloves may be marking with a hang tag instead of sewn-in labels or ink stamps, so long as the country of origin is on the front of the hand tag in reasonable proximity to the glove size, as ruled in HQ 731061, dated July 28, 1988.

Neckties and scarves which are accessory articles rather than wearing apparel with a neck opening must be marked with a sewn-in label in a conspicuous place on the article, see HQ 559620 dated May 17, 1996. However, shawls, scarves, mufflers, mantillas, and veils containing 70 percent or more by weight of silk or silk waste

classified under 6214.10.10 Harmonized Tariff Schedule of the United States, as in effect on January 1, 1997, (HTSUS), or to articles provided for in heading 5007 of the HTSUS as in effect on January 1, 1997 (woven fabrics of silk or silk waste) are not subject to the marking requirements of 19 U.S.C. 1304(a) and (b). See 19 U.S.C. 1304(h).

Textile belts may be marked with a hang tag in a conspicuous place and in a manner which assures that unless deliberately removed will remain on the article until it reaches the ultimate purchaser as ruled in HQ 733139 dated April 6, 1990.

Tie or scarf sold as an accessory to an accompanying blouse, all made from the same fabric and design, imported, sold and intended to be worn exclusively together - the tie or scarf loses its separate identity when combined and sold with the blouse. As such, only the blouse requires marking in accordance with HQ 729594 dated August 12, 1986 and HQ 733099 dated May 30, 1990.

Wearing apparel sold without normally being opened by the ultimate purchaser in sealed packages may be marked on the container in accordance with 19 U.S.C. 1304 (b). See HQ 732572 dated June 7, 1990 regarding infant socks packed in a sealed disposable clear plastic bag with a cardboard advertising card marked for country of origin; HQ 733796 dated June 10, 1991 regarding disposable one-time use undergarments packed in heat sealed polybags with a paper label insert marked with country of origin; and HQ 730910 dated September 6, 1988 regarding baby booties sold in disposable packages marked for country of origin.

Marking When Name of Country or Locality Other Than Country of Origin Appears

19 CFR 134.46 states: "in any case in which the words 'United States,' or 'American,' the letters 'U.S.A.,' any variation of such words or letters, or the name of any city or location in the United States, or the name of any foreign country or locality other than the country or locality in which the article was manufactured or produced appear on an imported article or its container, and those words, letters or names may mislead or deceive the ultimate purchaser as to the actual country of origin of the article, there shall appear legibly and permanently in close proximity to such words, letters or name, and in at least a comparable size, the name of the country of origin preceded by 'Made in,' 'Product of,' or other words of similar meaning."

Customs has determined that the following examples of articles marked with non-origin statements trigger the requirements of 19 CFR 134.46, as they may mislead or deceive the ultimate purchaser:

"A product of ABC Corp., Chicago, Illinois", "Manufactured and Distributed by ABC, Inc., Denver, Colorado", "Manufactured by ABC Corp., California, U.S.A.", "produced for ABC

Corp., Scotch Plains, N.J.", "Designed in USA", Made for XYZ Corp., California, USA", or "Distributed by ABC Inc., Colorado, USA".

Customs has determined that statements such as "Printed in USA", or names of locations which are part of the design of an article do not trigger the requirements of 19 CFR 134.46.

TEXTILE FIBER IDENTIFICATION ACT AND WOOL PRODUCTS LABELING ACT

Pursuant to section 141.113, Custom Regulations (19 C.F.R. 141.113), textile and apparel articles imported into the United States are required to be marked or labeled pursuant to the Textile Fiber Products Identification Act (15 U.S.C. 70) and the Wool Products Labeling Act (15 U.S.C. 68). These acts are enforced by the Federal Trade Commission (FTC). The following information in English must be included for marking or labeling purposes:

- Fiber content, by percentage in descending order by weight, using generic fiber names
- Fiber names approved by the FTC or by the International Organization for Standardization (ISO) may be used. For example, either spandex (an FTC approved name) or elastane (an ISO-approved name) may be used to name the same fiber.
- Approved fiber names may be modified by other truthful, descriptive words, for example, "pashmina cashmere" or "microfiber polyester."
- Trademarked names can be used in conjunction with generic fiber names, for example, "Lycra® Spandex" or "Tencel® Lyocell," but trade names alone do not satisfy the fiber identification requirement.
- The hair of new "hybrid" wool-bearing animals may be identified with the animal name, such as "cashgora hair" or "paco-vicuna hair."
- The fiber content may be stated on the reverse side of a label, as long as the information is readily accessible. The disclosure "fiber content on reverse side" is no longer required.
- Fibers that weigh less than 5 percent of the total fiber weight should not be identified by name unless they have a definite functional significance when present in that amount. The functional significance need not be stated on the label. For example, if a product is 3% spandex, the label may say "3% spandex," without also stating "for elasticity." If the fiber does not have functional significance at the level present in the product, however, it should be identified as simply "3% other fiber."

- The name of the country of origin of the product
- Country of origin must be disclosed on the front side of a label on the inside center of the neckline in a garment with a neckline. For other textile products, it must be on the front of a label in a conspicuous place.
- The name of the importer, distributor, retailer, or foreign manufacturer
- Importers, distributors, and retailers may use RN numbers or WPL numbers issued by the FTC instead of their names.
- Only companies residing in the U.S. can obtain and use RN numbers. Foreign manufacturers may use either their name or the RN or WPL number of a U.S. importer, distributor, or retailer directly involved with the distribution of the goods.
- The responsible firm may be identified by its trademark name, provided that the trademark name has been registered with the U.S. Patent Office and a copy of the trademark registration has been furnished to the FTC prior to its use. Trademarked brand names may not be used to satisfy this requirement.

NOTE: The FTC is also responsible for enforcing the Trade Regulation Rule Concerning the Care Labeling of Textile Wearing Apparel, 16 C.F.R. Part 423, which requires a permanent label that provides care instructions on all wearing apparel, unless there is an exemption (e.g., gloves).

For more information about these requirements, companies may contact the Federal Trade Commission, Division of Enforcement, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. The FTC Website at **www.ftc.gov** provides comprehensive information on FTC rules and regulations for the labeling of textile products. A textile telephone information system is available at 202-326-3553.

ADDITIONAL INFORMATION

The Internet

The home page of U.S. Customs and Border Protection on the Internet's World Wide Web, provides the trade community with current, relevant information regarding CBP operations and items of special interest. The site posts information -- which includes proposed regulations, news releases, publications and notices, etc. -- that can be searched, read on-line, printed or downloaded to your personal computer. The web site was established as a trade-friendly mechanism to assist the importing and exporting community. The web site also links to the home pages of many other agencies whose importing or exporting regulations that U.S. Customs and Border Protection helps to enforce. The web site also contains a wealth of information of interest to a broader public than the trade community. For instance, on June 20, 2001, CBP launched the "Know Before You Go" publication and traveler awareness campaign designed to help educate international travelers.

The web address of U.S. Customs and Border Protection is <http://www.cbp.gov>

Customs Regulations

The current edition of *Customs Regulations of the United States* is a loose-leaf, subscription publication available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402; telephone (202) 512-1800. A bound, 2003 edition of Title 19, *Code of Federal Regulations*, which incorporates all changes to the Regulations as of April 1, 2003, is also available for sale from the same address. All proposed and final regulations are published in the *Federal Register*, which is published daily by the Office of the Federal Register, National Archives and Records Administration, and distributed by the Superintendent of Documents. Information about on-line access to the *Federal Register* may be obtained by calling (202) 512-1530 between 7 a.m. and 5 p.m. Eastern time. These notices are also published in the weekly *Customs Bulletin* described below.

Customs Bulletin

The *Customs Bulletin and Decisions* ("Customs Bulletin") is a weekly publication that contains decisions, rulings, regulatory proposals, notices and other information of interest to the trade community. It also contains decisions issued by the U.S. Court of International Trade, as well as customs-related decisions of the U.S. Court of Appeals for the Federal Circuit. Each year, the Government Printing Office publishes bound volumes of the *Customs Bulletin*. Subscriptions may be purchased from the Superintendent of Documents at the address and phone number listed above.

Importing Into the United States

This publication provides an overview of the importing process and contains general information about import requirements. The February 2002 edition of *Importing Into the United States* contains much new and revised material brought about pursuant to the Customs Modernization Act ("Mod Act"). The Mod Act has fundamentally altered the relationship between importers and U.S. Customs and Border Protection by shifting to the importer the legal responsibility for declaring the value, classification, and rate of duty applicable to entered merchandise.

The February 2002 edition contains a section entitled "Informed Compliance." A key component of informed compliance is the shared responsibility between U.S. Customs and Border Protection and the import community, wherein CBP communicates its requirements to the importer, and the importer, in turn, uses reasonable care to assure that CBP is provided accurate and timely data pertaining to his or her importation.

Single copies may be obtained from local offices of U.S. Customs and Border Protection, or from the Office of Public Affairs, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Washington, DC 20229. An on-line version is available at the CBP web site. *Importing Into the United States* is also available for sale, in single copies or bulk orders, from the Superintendent of Documents by calling (202) 512-1800, or by mail from the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7054.

Informed Compliance Publications

U.S. Customs and Border Protection has prepared a number of Informed Compliance publications in the "*What Every Member of the Trade Community Should Know About:...*" series. Check the Internet web site <http://www.cbp.gov> for current publications.

Value Publications

Customs Valuation under the Trade Agreements Act of 1979 is a 96-page book containing a detailed narrative description of the customs valuation system, the customs valuation title of the Trade Agreements Act (§402 of the Tariff Act of 1930, as amended by the Trade Agreements Act of 1979 (19 U.S.C. §1401a)), the Statement of Administrative Action which was sent to the U.S. Congress in conjunction with the TAA, regulations (19 C.F.R. §§152.000-152.108) implementing the valuation system (a few sections of the regulations have been amended subsequent to the publication of the book) and questions and answers concerning the valuation system. A copy may be obtained from U.S. Customs and Border Protection, Office of Regulations and Rulings, Value Branch, 1300 Pennsylvania Avenue, (Mint Annex), NW, Washington, D.C. 20229.

Customs Valuation Encyclopedia (with updates) is comprised of relevant statutory provisions, CBP Regulations implementing the statute, portions of the Customs Valuation Code, judicial precedent, and administrative rulings involving application of valuation law. A copy may be purchased for a nominal charge from the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7054. This publication is also available on the Internet web site of U.S. Customs and Border Protection.

The information provided in this publication is for general information purposes only. Recognizing that many complicated factors may be involved in customs issues, an importer may wish to obtain a ruling under CBP Regulations, 19 C.F.R. Part 177, or obtain advice from an expert (such as a licensed Customs Broker, attorney or consultant) who specializes in customs matters. Reliance solely on the general information in this pamphlet may not be considered reasonable care.

Additional information may also be obtained from U.S. Customs and Border Protection ports of entry. Please consult your telephone directory for an office near you. The listing will be found under U.S. Government, Department of Homeland Security.

“Your Comments are Important”

The Small Business and Regulatory Enforcement Ombudsman and 10 regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement activities and rate each agency’s responsiveness to small business. If you wish to comment on the enforcement actions of U.S. Customs and Border Protection, call 1-888-REG-FAIR (1-888-734-3247).

REPORT SMUGGLING 1-800-BE-ALERT OR 1-800-NO-DROGA



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